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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,003	04/19/2004	James D. Stanford	STANFORD.UTL	3489

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EXAMINER	
SAVAGE, MATTHEW O	

ART UNIT	PAPER NUMBER
1724	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/827,003	STANFORD ET AL.	
	Examiner	Art Unit	
	Matthew O. Savage	1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-23 is/are pending in the application.

4a) Of the above claim(s) 19-23 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-18 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 4-19-04, 8-8-05.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-18, drawn to a system, classified in class 210, subclass 96.1.

II. Claims 19-23, drawn to a method, classified in class 210, subclass 739.

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process could be practiced by another and materially different apparatus, for example, a chlorinator adding chlorine gas to the water as opposed to calcium hypochlorite.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Bob Ward on 4-26-07 a provisional election was made with traverse to prosecute the invention of group I, claims 1-18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19-23 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim 2 is objected to because of the following informalities: a period should be inserted at the end of claim 2. Appropriate correction is required.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations of cliam 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification and drawings fail to adequately the structure recited in claim 11. Applicant should note that the float controls the flow of unchlorinated water from the bypass line 110 into the solution tank as opposed the flow of water from the chlorinator into the solution tank (see FIG. 1).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to lines 8-9 of claim 1, it is unclear as to whether or not "a downstream portion of the main water flow line" is the same as that recited on lines 4-5 of the claim.

Regarding lines 2-3 of claim 12, "the water sample line" and "the pH sensor line" lack antecedent basis. It is suggested that claim 12 be amended to depend from claim 3.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 7, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillups.

With respect to claim 1, Phillups discloses a main flow water line 12 (see FIG. 1); a bypass line 25, 41 having an inlet connected to an upstream portion 19a of the main flow water line and an outlet connected to a downstream portion 19b of the main flow water line; a chlorinator 18 having an inlet 29 connected the bypass line outlet and an outlet 32; and a solution tank 31 having an inlet 38 connected to the chlorinator outlet 32 and to the bypass line outlet and an outlet 40, wherein the solution tank outlet 40 is connected to the downstream portion of the main flow water line.

Concerning claim 7, Phillups discloses the solution tank 31 as receiving a portion of water from the bypass line (e.g., via line 44) and a portion of chlorinated water from the chlorinator (e.g., via outlet 32).

As to claim 17, Phillups discloses a chlorinating chemical located within the chlorinator (see lines 65-68 of col. 2).

Claims 1, 7, 9-11, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferguson et al.

With respect to claim 1, Ferguson et al disclose a main flow water line 50, 52 (see FIG. 1); a bypass line (e.g., line 50 downstream line 52) having an inlet connected to an upstream portion of the main flow water line and an outlet connected to a downstream portion of the main flow water line; a chlorinator 26 having an inlet 27 connected the bypass line outlet and an outlet 28; and a solution tank 10 having an inlet 60 connected to the chlorinator outlet and to the bypass line outlet 64 and an outlet 62, wherein the solution tank outlet 62 is connected to the downstream portion of the main flow water line (e.g., via line 64).

Concerning claim 7, Ferguson et al disclose the solution tank 10 as receiving a portion of water from the bypass line (e.g., via line 56) and a portion of chlorinated water from the chlorinator (e.g., via line 58).

Regarding claims 9-10, Ferguson et al disclose the recited chlorinator (see U.S. Patent 5,427,748 mentioned in paragraph 53).

As to claim 11, Ferguson et al disclose a float valve 14 controlling the flow of chlorinated water from the outlet 28 of the chlorinator 26 into the solution tank 10.

As to claims 17 and 18, Ferguson et al disclose a chlorinating chemical in the form of calcium hypochorite located within the chlorinator (see paragraph 54).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al in view of Hammonds.

With respect to claim 2, Ferguson et al fail to specify a water sample line connected to the main water flow downstream of the downstream portion. Hammonds discloses the concept of measuring the concentration of chlorine with a sensor 208 (see FIG. 7) connected to the main water flow 200 downstream of the downstream portion and suggests that such an arrangement is capable of automatically controlling the level of chlorine the main water flow. It would have been obvious to have modified the system of Ferguson et al so as to have included the arrangement for controlling the level of chlorine in the main water flow as suggested by Hammonds in order to enable automatic control of the chlorine level in the main water flow. Ferguson et al and Hammonds fail specify a water sample line for sensing the control level, however, such

an arrangement is known and disclosed by MacKay (see FIG. 1 or 3). It would have been obvious to have modified the combination suggested by Ferguson et al and Hammonds so as to have included a water sample line for sensing the chlorine level as suggested by MacKay in order to provide commonly known means for measuring the level of chlorine in a main water flow.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al.

Ferguson et al disclose a pump 20 connected between the solution tank outlet 62 and the downstream portion of the main flow water line. Ferguson et al fail to specify "pumps", however, the duplication of such parts has no patentable significance unless a new and unexpected result is produced (see *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)).

Claims 3-6 and 12-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st and 2nd paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O. Savage whose telephone number is (571) 272-1146. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

Matthew O. Savage

Matthew O Savage
Primary Examiner
Art Unit 1724

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